

(1) The information must be reasonably recoverable without bringing undue attention to the information which means that:

(i) Most individual recipients or holders are known and can be contacted and all instances of the information to be reclassified will not be more widely disseminated;

(ii) If the information has been made available to the public via a means such as Government archives or reading room, consideration is given to length of time the record has been available to the public, the extent to which the record has been accessed for research, and the extent to which the record and/or classified information at issue has been copied, referenced, or publicized; and

(iii) If the information has been made available to the public via electronic means such as the internet, consideration is given as to the number of times the information was accessed, the form of access, and whether the information at issue has been copied, referenced, or publicized.

(2) If the reclassification concerns a record in the physical custody of NARA and has been available for public use, reclassification requires notification to the Archivist and approval by the Director of ISOO.

(3) Any recipients or holders of the reclassified information who have current security clearances shall be appropriately briefed about their continuing legal obligations and responsibilities to protect this information from unauthorized disclosure. The recipients or holders who do not have security clearances shall, to the extent practicable, be appropriately briefed about the reclassification of the information that they have had access to, their obligation not to disclose the information, and be requested to sign an acknowledgement of this briefing.

(4) The reclassified information must be appropriately marked in accordance with section 2001.24(1) and safeguarded. The markings should include the authority for and the date of the reclassification action.

(5) Once the reclassification action has occurred, it must be reported to the National Security Advisor and to the Director of ISOO by the agency

head or senior agency official within 30 days. The notification must include details concerning paragraphs (b)(1) and (3) of this section.

(c) *Classification by compilation.* A determination that information is classified through the compilation of unclassified information is a derivative classification action based upon existing original classification guidance. If the compilation of unclassified information reveals a new aspect of information that meets the criteria for classification, it shall be referred to an original classification authority with jurisdiction over the information to make an original classification decision.

§ 2001.14 Classification challenges.

(a) *Challenging classification.* Authorized holders, including authorized holders outside the classifying agency, who want to challenge the classification status of information shall present such challenges to an original classification authority with jurisdiction over the information. An authorized holder is any individual who has been granted access to specific classified information in accordance with the provisions of the Order to include the special conditions set forth in section 4.1(h) of the Order. A formal challenge under this provision must be in writing, but need not be any more specific than to question why information is or is not classified, or is classified at a certain level.

(b) *Agency procedures.* (1) Because the Order encourages authorized holders to challenge classification as a means for promoting proper and thoughtful classification actions, agencies shall ensure that no retribution is taken against any authorized holders bringing such a challenge in good faith.

(2) Agencies shall establish a system for processing, tracking and recording formal classification challenges made by authorized holders. Agencies shall consider classification challenges separately from Freedom of Information Act or other access requests, and shall not process such challenges in turn with pending access requests.

(3) The agency shall provide an initial written response to a challenge within 60 days. If the agency is unable to respond to the challenge within 60

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days, the agency must acknowledge the challenge in writing, and provide a date by which the agency will respond. The acknowledgment must include a statement that if no agency response is received within 120 days, the challenger has the right to forward the challenge to the Interagency Security Classification Appeals Panel (Panel) for a decision. The challenger may also forward the challenge to the Panel if an agency has not responded to an internal appeal within 90 days of the agency's receipt of the appeal. Agency responses to those challenges it denies shall include the challenger's appeal rights to the Panel.

(4) Whenever an agency receives a classification challenge to information that has been the subject of a challenge within the past two years, or that is the subject of pending litigation, the agency is not required to process the challenge beyond informing the challenger of this fact and of the challenger's appeal rights, if any.

(c) *Additional considerations.* (1) Challengers and agencies shall attempt to keep all challenges, appeals and responses unclassified. However, classified information contained in a challenge, an agency response, or an appeal shall be handled and protected in accordance with the Order and this Directive. Information being challenged for classification shall remain classified unless and until a final decision is made to declassify it.

(2) The classification challenge provision is not intended to prevent an authorized holder from informally questioning the classification status of particular information. Such informal inquiries should be encouraged as a means of holding down the number of formal challenges and to ensure the integrity of the classification process.

§ 2001.15 Classification guides.

(a) *Preparation of classification guides.* Originators of classification guides are encouraged to consult users of guides for input when developing or updating guides. When possible, originators of classification guides are encouraged to communicate within their agencies and with other agencies that are developing guidelines for similar activities to ensure the consistency and uniformity of

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classification decisions. Each agency shall maintain a list of its classification guides in use.

(b) *General content of classification guides.* Classification guides shall, at a minimum:

(1) Identify the subject matter of the classification guide;

(2) Identify the original classification authority by name and position, or personal identifier;

(3) Identify an agency point-of-contact or points-of-contact for questions regarding the classification guide;

(4) Provide the date of issuance or last review;

(5) State precisely the elements of information to be protected;

(6) State which classification level applies to each element of information, and, when useful, specify the elements of information that are unclassified;

(7) State, when applicable, special handling caveats;

(8) State a concise reason for classification which, at a minimum, cites the applicable classification category or categories in section 1.4 of the Order; and

(9) Prescribe a specific date or event for declassification, the marking “50X1-HUM” or “50X2-WMD” as appropriate, or one or more of the exemption codes listed in 2001.26(a)(2), provided that:

(i) The exemption has been approved by the Panel under section 3.3(j) of the Order;

(ii) The Panel is notified of the intent to take such actions for specific information in advance of approval and the information remains in active use; and

(iii) The exemption code is accompanied with a declassification date or event that has been approved by the Panel.

(c) *Dissemination of classification guides.* Classification guides shall be disseminated as necessary to ensure the proper and uniform derivative classification of information.

(d) *Reviewing and updating classification guides.* (1) Agencies shall incorporate original classification decisions into classification guides as soon as practicable.

(2) Originators of classification guides are encouraged to consult the